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BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

Guy M. Hicks
General Counsel

615 214 6301
Fax 615 214 7406

TH REGULATOR AUTHORITY
June 22, 2004
DOCKET ROOM

VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *XO Petition for Declaratory Ruling Requiring BellSouth
Telecommunications, Inc. to Honor Existing Interconnection
Agreements*
Docket No. 04-00158

Dear Chairman Tate:

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this letter to address the impact of the mandate, issued by the United States Court of Appeals for the District of Columbia Circuit (Court) on June 16, 2004, that effectuates the Opinion that the Court released on March 2, 2004. By virtue of this mandate, as of June 16, 2004, certain unbundling rules adopted by the Federal Communications Commission (FCC) in its Triennial Review Order (TRO) on October 2, 2003, were vacated. Specifically, the Court vacated the FCC's rules associated with the unbundling of mass-market switching, high capacity dedicated transport, dark fiber and high capacity loops, thereby eliminating BellSouth's obligation pursuant to Section 251 of the 1996 Telecommunications Act to unbundle these elements at Total Element Long-Run Incremental Cost (TELRIC) rates.

In written correspondence to the industry, to the FCC, and to our state public service commissions, BellSouth has committed to continue honoring its existing interconnection agreements until those agreements have been conformed to be consistent with the Court's mandate. To that end, BellSouth has committed that it will not unilaterally¹ increase the prices it charges for mass market switching, high-capacity dedicated transport, dark fiber or high capacity loops prior to January 1, 2005 for those carriers

¹ This commitment does not prevent BellSouth from increasing rates as a result of the issuance of a pending cost order by a state commission, and it does not prevent BellSouth and another carrier from mutually agreeing to increased rates in 2004

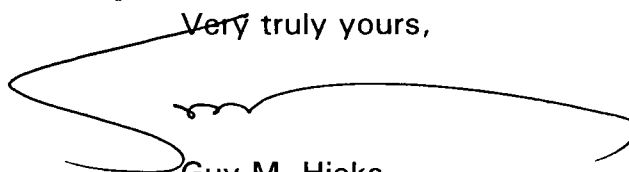
Hon. Deborah Taylor Tate, Chairman
June 22, 2004
Page 2

with current interconnection agreements. If a carrier with an existing interconnection agreement has not entered into an alternative arrangement to obtain such elements from BellSouth as of January 1, 2005, BellSouth will continue to honor the terms of the carrier's existing interconnection agreement until such time as established legal processes relieve BellSouth of that obligation. BellSouth also will continue negotiating commercial agreements for its DSO Wholesale Local Voice Platform Service, and such commercial agreements will include no rate increase for 2004. BellSouth will also continue to offer a plan to transition high capacity dedicated transport, dark fiber and high capacity loops from UNE rates to access tariff rates – again, with no rate increase for 2004. FCC Chairman Powell has announced that the FCC is working expeditiously to issue new rules that comply with the Court's mandate, and such rules are expected by the end of this year.

In the meantime, BellSouth intends to implement the Court's mandate via "change of law" provisions in each competitive local exchange carrier's (CLEC) interconnection agreement. BellSouth will follow the applicable notice provisions set forth in those agreements and will provide each CLEC with written notice requesting that the CLEC enter into an amendment to its interconnection agreement. This amendment will comply with the Court's mandate by eliminating language from the interconnection agreement concerning those network elements provided under the FCC rules that have now been vacated. This exercise is purely ministerial and should not require extensive negotiation. Any disputes that arise between the parties will be brought to the Authority for resolution, unless the terms of the approved interconnection agreement provide for an alternate method of dispute resolution.

In short, BellSouth is committed to an orderly transition to effectuate the Court's mandate. Notwithstanding rhetoric from certain CLECs to the contrary, this orderly transition should not result in any consumer paying higher prices for telephone service, and CLECs will continue to be able to purchase products and services from BellSouth to serve their end user customers.

Very truly yours,



Guy M. Hicks

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2004, a copy of the foregoing document was served on the following, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

Henry Walker, Esquire
Boult, Cummings, et al.
414 Union Street, #1600
Nashville, TN 37219-8062
hwalker@boultcummings.com

